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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/074,064

02/12/2002

Antonio Asaro

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23418 7590 06/04/2009
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222 N. LASALLE STREET
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EXAMINER

MYERS, PAUL R

ART UNIT

PAPER NUMBER

2111

MAIL DATE

DELIVERY MODE

06/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANTONIO ASARO,
AND BRIAN LEE, KULDIP SAHDRA,
AND GORDON CARUK

Application No. 10/074,064
Technology Center 2111

Mailed: June 4, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 1, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on May 18, 2009, in response to the Examiner's Answer mailed March 17, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed May 29, 2009, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) vacate the Communication mailed May 29, 2009;
- 2) generate and mail either:
 - a) a revised Communication properly acknowledging to the Reply Brief dated May 18, 2009 in accordance with MPEP§ 1208, part II.;OR
 - b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and
- 3) for such further action as may be appropriate.

Application No. 10/074,064

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL\

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